

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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STEVEN CHRISTOPHER GAZLAY,

Case No. 2:23-cv-00221-MMD-EJY

Petitioner,

ORDER

v.

LAS VEGAS METRO POLICE
DEPARTMENT, *et al.*,

Respondents.

This habeas matter is before the Court for an initial review of *pro se* Petitioner Steven Christopher Gazlay's 28 U.S.C. § 2241 petition for writ of habeas corpus under the Rules Governing Section 2254 Cases.¹ For the reasons discussed below, the Court summarily dismisses this action because Petitioner has not exhausted available state judicial remedies and because the petition is barred by the *Younger* abstention doctrine.

Petitioner is a pretrial detainee who was formerly in custody at the Clark County Detention Center. He challenges his detention and high-level electronic monitoring—house arrest. He alleges that he was falsely arrested based on a lack of probable cause and “manufactured facts and circumstances.” (ECF No. 1 at 6.) He further alleges that he has been arrested and detained based on an unconstitutionally vague statute, that the Clark County District Attorney's office has improperly exercised the authority of the legislative branch, and that the State of Nevada failed to provide adequate notice of summons for indictment in his state court case. (*Id.* at 6-7.) See *State of Nevada v. Gazlay*, Case No. C-21-358879-1; *State of Nevada v. Gazlay*, Case No. C-21-353553-1.

¹All references to a “Habeas Rule” or the “Habeas Rules” in this order identify the Rules Governing Section 2254 Cases in the United States District Courts.

1 First, Petitioner has failed to exhaust his state remedies before pursuing this
2 federal action. “[A] state prisoner must normally exhaust available state judicial remedies
3 before a federal court will entertain his petition for habeas corpus.” *Picard v. Connor*, 404
4 U.S. 270, 275 (1971). The exhaustion requirement is based on the policy of federal-state
5 comity and is intended to allow state courts the initial opportunity to correct constitutional
6 violations. See *id.* To exhaust a claim, a petitioner must fairly present the claim to the
7 highest available state court and give that court the opportunity to address and resolve it.
8 See *Duncan v. Henry*, 513 U.S. 364, 364 (1995) (citing *Picard*, 404 U.S. at 275). Although
9 28 U.S.C. § 2241 does not explicitly require exhaustion, federal courts generally require,
10 as a prudential matter, that habeas petitioners exhaust available administrative and
11 judicial remedies before seeking relief under § 2241. See *Ward v. Chavez*, 678 F.3d 1042,
12 1045 (9th Cir. 2012); *Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). The exhaustion
13 requirement is subject to waiver in § 2241 cases if pursuing available remedies would be
14 futile. See *Ward*, 678 F.3d at 1045.

15 The petition does not indicate that Petitioner exhausted his claims in state court. It
16 appears that both of Petitioner’s state court cases are ongoing, and he has not sought
17 relief from the Nevada Court of Appeals or Nevada Supreme Court.

18 Second, Petitioner has not demonstrated the extraordinary circumstances
19 necessary for this federal court to interfere in a state court criminal prosecution. In
20 *Younger v. Harris*, 401 U.S. 37 (1971), the Supreme Court held that the principles of
21 comity and federalism preclude federal courts from interfering with ongoing state criminal
22 proceedings absent extraordinary circumstances. *Younger* abstention is appropriate
23 when state court criminal proceedings are ongoing, implicate important state interests,
24 and provide an adequate opportunity to raise the defendant’s claims. See *Middlesex Cty.*
25 *Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 432 (1982); *Kenneally v.*
26 *Lungren*, 967 F.2d 329, 331-32 (9th Cir. 1992).

27 Petitioner is challenging the constitutionality of charges related to ongoing criminal
28 cases. (ECF No. 1 at 6-7.) His ongoing criminal cases naturally implicate important state

1 interests and provide adequate opportunity for Petitioner to raise his constitutional claims.
2 There is no indication of extraordinary circumstances or a showing that irreparable injury
3 will occur. *See Brown v. Ahern*, 676 F.3d 899, 900-01 (9th Cir. 2012). Accordingly,
4 abstention is required.

5 Because the petition is unexhausted and Petitioner has not presented any basis
6 for the Court to circumvent *Younger* abstention at this time, this matter will be dismissed
7 without prejudice. Dismissal of this action without prejudice will not materially impact the
8 analysis of any issue in a later filed habeas proceeding, or otherwise result in substantial
9 prejudice.


10 It is therefore ordered that the petition for writ of habeas corpus under 28 U.S.C. §
11 2241 (ECF No. 1) is dismissed without prejudice.

12 It is further ordered that a certificate of appealability is denied as jurists of reason
13 would not find dismissal of the petition to be debatable or wrong.

14 The Clerk of Court is directed to add Aaron Ford, Attorney General of the State of
15 Nevada, as counsel for Respondents and to provide Respondents an electronic copy of
16 all items previously filed in this case by regenerating the Notice of Electronic Filing to the
17 Office of the Attorney General only.

18 The Clerk of Court is directed to close this case and enter judgment accordingly,
19 dismissing this action without prejudice.

20 DATED THIS 1st Day of March 2023.

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23 _____
24 MIRANDA M. DU
25 CHIEF UNITED STATES DISTRICT JUDGE
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